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ABSTRACT

Most state legislatures face recurrent budget problems for 1993 and are struggling with major policy reforms in health care and education. A National Conference of State Legislatures survey confirms that many states have confronted the same core problems and policy restraints for more than 3 years. Revenues for FY 1993 are likely to fall short of expectations in at least half the states. Health-care costs, especially Medicaid, continue to exceed revenues. Lawmakers are struggling to fund educational improvements to better prepare graduates for careers. Many states are expanding their prison capacities at great expense to deal with the growing number of inmates. Meanwhile, it is difficult for legislatures to raise taxes to pay for these expenses. Voters in several states are endorsing constitutional amendments that severely restrict tax increases. However, most legislative leaders are committed to reform in two areas--education improvement and health-care reform. In educational reform, many state policymakers support an approach that considers a child's health, family environment, and emotional support, as well as formal instruction. Controlling health-care costs and health insurance were concerns of nearly all states. Other state priorities included economic development, jobs, infrastructure, environment, state political reform, and state-federal relations. (JPT)

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ISSUES OUTLOOK 1993

A SURVEY OF STATE LEGISLATIVE PRIORITIES

NATIONAL CONFERENCE OF STATE LEGISLATURES

EA 024 776

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The National Conference of State Legislatures serves the legislators and staffs of the nation's 50 states, its commonwealths, and territories.

NCSL was created in January 1975 from the merger of three organizations that served or represented state legislatures. NCSL is a bipartisan organization with three objectives:

- To improve the quality and effectiveness of state legislatures,
- To foster interstate communication and cooperation,
- To ensure states a strong, cohesive voice in the federal system.

The Conference operates from offices in Denver, Colorado, and Washington, D.C.

ISSUES OUTLOOK 1993

A Survey of State Legislative Priorities

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SUMMARY

While the recent elections promoted "change" as the policy watchword for 1993, the top items on legislative agendas will remain remarkably constant. *Issues Outlook 1993*--the NCSL pre-session survey of legislative priorities throughout the United States--has found most state legislatures facing recurrent budget problems while struggling with major policy reforms in health care and public education. Their continuing challenge will be in designing policies to improve K-12 education, expand access to health care, and control health care costs, while constrained by a stalled economy, public opposition to increased taxes, and federal mandates.

Lawmakers in many states have confronted the same core problems and policy constraints for more than three years, and the reasons persist for 1993. Sustained and rapid increases in program costs--especially for Medicaid, education, and corrections--and public rejection of tax increases combine with a stagnant economy to produce recurring budget shortfalls:

- *Revenues for FY 1993* are likely to fall short of expectations in at least half the states, as they did in FY 1991 and FY 1992, even though projections were based on moderate assumptions about economic recovery. In some cases, the estimated shortfalls constitute a substantial fraction of the budget, as in California (13 percent to 25 percent), Maryland (7 percent to 8 percent), Minnesota (5 percent to 6 percent), and Texas (15 percent to 20 percent). Looking farther ahead, more than half the states reported a structured imbalance for the next three to five years, with expected revenue growth (without new taxes) failing to keep pace with the growing cost of maintaining current programs.

- *Health care costs*--especially Medicaid, which is the fastest growing expenditure in state budgets--are outrunning revenues. Medicaid costs have been increasing 15 percent annually for the last three years, sapping funds from other programs. Medicaid now absorbs more than 12 percent of state general funds, up from 9.2 percent in FY 1990. At least 11 states expect Medicaid spending to grow more than 20 percent in FY 1993.

Federal mandates have helped drive these costs upward and, at the same time, impeded state efforts to cover the increases through health provider taxes, assessments, and donations. A Virginia legislator decried "increased mandates by the federal government of $500 million additional for our share of Medicaid. We have no new monies."

- *Educational improvement* remains a top priority on legislative agendas as states seek ways to better prepare their graduates to compete in the modern global economy. Education finance, however, dominates as lawmakers struggle to find state funding mechanisms to supplement or replace local property taxes to ensure equity among school districts. Lawsuits and court oversight often dictate the timetable and options for reforming school finance. More than 20 states currently are enmeshed in school finance litigation. State legislatures therefore are pressed to supply even more funding for the single largest category of the state budget.

- *The nation's prison inmate population* in 1992 exceeded the rated capacity of prison facilities by more than 15 percent, and many states have undertaken costly construction programs, often in response to federal lawsuits and court orders. Corrections spending consequently rose from 1 percent of state general funds in the early 1980s to 4.7 percent in 1992, the fastest growing state expenditure after Medicaid. Last year 40 states were building, expanding, or renovating prison facilities to house 100,000 new inmates at a cost of some $5 billion, and prison operating costs were even higher--$18 billion. But to the frustration of state policymakers, prisons and the closely related issue of sentencing stubbornly remain on the agenda because the increased funding for corrections has not been sufficient to keep prisons operating safely and constitutionally in many states.

- *Higher taxes*, even dedicated taxes for education, garner little public support. Voters in fact are endorsing constitutional amendments that make any state tax increase very difficult and may work to "ratchet" tax revenues downward. Colorado voters adopted a ballot measure of this

kind in November, and at the same time rejected a one-cent sales tax to fund education. In Arizona, voters adopted a constitutional amendment requiring a two-thirds majority of the Legislature to increase state revenues. Voter approval for a tax increase is required in Oklahoma, and the impact of this stricture was seen in November--voters rejected a health care provider tax to help fund Medicaid, resulting in a $100 million to $150 million shortfall in the general fund that lawmakers must cope with in 1993.

Thus, in a stagnant economy and without public support for tax increases, state legislatures must again grapple with spiraling costs for Medicaid, education, and corrections, programs that on average constitute approximately two-thirds of state general fund budgets. Much of these rising costs and even the responses available to legislators are being dictated by federal mandates, court orders, and other factors over which lawmakers have little control.

So, while state legislators also are ready for "change," they must necessarily deal again with these persistent budgeting issues as their leading priorities in 1993. In addition, however, most legislative leaders and other key lawmakers clearly are committed to advancing two broad policy objectives--education improvement and health care reform--even while struggling with budget shortfalls.

Budget Cutting

With revenue shortfalls probable and tax increases largely foreclosed, many lawmakers may find budget cutting to be their first task. Most legislative leaders identified "across-the-board" cuts as the most likely step if cuts are necessary. But where cuts must be deep, more selective reductions will be required. The first candidate for targeted cutbacks is aid to local governments, as it has been in previous years. In almost all cases, legislative leaders also said that their legislature's own budget is at least as likely to be cut as local government aid, and more than 40 percent actually expect such reductions in 1993. Funding for K-12 education remains the last in line for budget trimming and the first priority for increased appropriations.

Education

Many state policymakers are approaching education reform with a new perspective that stresses the "whole child." School success is seen as a product of the child's health, family environment, and emotional support, as well as formal instruction. Educational services, from this viewpoint, need to be integrated with other health and social services into "children's services." Education survey respondents reflected this perspective in ranking school readiness and early childhood education as the top education priority after financing. Nearly 80 percent of the respondents said that collaboration between education and social services will be a major concern in 1993.

Next in priority for 1993: K-12 education reform and restructuring, including site-based management, outcome-based assessment, curriculum, governance, and school choice; post-secondary education, especially financial aid and accountability of higher education institutions; and issues concerning teachers, such as certification, recruitment and retention, and pensions.

Health Care Reform

Issues Outlook 1993 respondents spoke with great urgency about the large numbers of residents in their states who have no health insurance and simply cannot afford adequate care. Their determination to address this problem, as well as the unmanageable increases in health care costs, was striking. Even where budget shortfalls are critical, the determination to act on these issues seemed firm. California is one of those states with a major budget crisis, and the following statement by a Republican legislative leader characterizes the attitude of many other respondents:

California currently has several programs in place to provide publicly subsidized private health insurance to low-income women and their infants. It is likely that if any additional funds become available in 1993, these resources will be used to expand coverage to additional children....Despite California's

recurring budget problems, the Legislature and the governor have remained committed to funding health care. I expect this commitment to continue in 1993.

Most states working on health care reform will examine the Canadian single-payer system, the Oregon health care rationing plan, and Hawaii's program to guarantee health care to all citizens, as well as new programs in Florida, Massachusetts, Minnesota, and Vermont. Some respondents called for a federal health care program and others strongly rejected that option. But almost everyone agreed that the past combination of federal inaction, meddling, and mandates has been counterproductive. The most common view was expressed by a New York Senate leader: "States need maximum flexibility while the nation goes through a course correction."

Measures to expand access to health care will most commonly involve the private sector through mandated benefits, small group insurance reform, and managed care. More than 60 percent of the health care respondents consider adoption of such measures likely in 1993. Expansion of eligibility or services through Medicaid or a state-sponsored program also will be a high priority in several states, although other states may restrict Medicaid eligibility as a cost-saving measure.

Medicaid managed care will be a leading cost-control strategy for states in 1993. Some states will also examine regulating (or deregulating) health facilities, global budgeting, and workers' compensation cost caps.

Other top health policy concerns for many states include child immunization, long-term care alternatives to institutionalization, and rural health care. AIDS issues showed a relatively low priority except in those states hardest hit by the epidemic, often because the state already has programs in place, according to respondents.

Other Priority Issues

Legislative leaders from numerous states listed economic development, jobs and infrastructure among their legislature's top three priorities for 1993. Defense industry conversion specifically was mentioned by leaders in states hardest hit by cutbacks. A variety of environmental concerns surfaced, but implementation of the Clean Air Act requirements was the single most common issue. Workers' compensation reform and welfare reform were identified as priorities for several states.

Legislative Management

Issues Outlook 1993 also explored a variety of issues concerning the legislature itself, including ethics, campaign finance reform, and legislative organization. The greatest need for improvement, according to respondents, is strengthening the legislature's long-range planning capacity. Almost 70 percent of the legislative leaders gave high priority to improved foresight and planning.

State-Federal Relations

The overriding concern regarding federal policy is unfunded federal mandates, which survey respondents almost universally condemned in the clearest terms ranging from anger to dismay.

In some cases the problem is "de facto" mandates, such as the high costs imposed on state criminal justice systems by the federal "war on drugs," and the federal threat of withholding highway funds to force state actions that, strictly speaking, are not mandates.

More commonly, lawmakers feel backed against the wall by federal mandates to expand entitlements in health, education, and social service programs. Mandates in the Americans with Disabilities Act and the Family Support Act were specifically criticized.

Medicaid, however, stands out as the worst offender, due to the program's high and rapidly increasing costs combined with federal proscriptions regarding methods states may use to fund expanding entitlements. State distress regarding Medicaid was expressed strongly by a Senate leader in New York: "Medicaid is far more significant in the short and long run to the future of federalism than the next dozen issues."

So as state legislatures strive to reform their education systems, promote better health for their citizens, and control the costs of state government, they will indeed require change in federal policies. Federal mandates cannot

continue simply to shift costs without overwhelming the ability of states to serve their constituents. State legislatures will continue to develop innovative solutions for improved health care for all citizens, refurbished infrastructure, educational excellence, economic vitality, and other concerns of their citizens, but they need federal policies that will assist them.

The budget will be the top issue for almost every state legislature in 1993, which comes as no surprise to anyone who has observed state politics over the last few years. Revenue shortfalls, tax increases, tax rollbacks, Medicaid spending, spending on K-12 education, property tax relief, tax limitations, spending limits--these and their variants have dominated state legislative agendas since 1989.

While budget and tax issues don't change much, legislators' responses to them do. This chapter looks at the fiscal issues legislative leaders expect to head their agendas in 1993, and how some legislators expect those issues to be handled. It also examines the way that 1992 legislative sessions dealt with issues of taxes and budgets as a basis of evaluating the legislators' forecast for 1993.[1]

Budget Concerns for FY 1993

Leaders from at least half the states foresee revenue shortfalls and the need for budget reductions in 1993, the consequence of slow recovery from the recession. The biggest single issue in Kentucky, for example, is how to deal with the $180 million shortfall that a sluggish economy will produce in FY 1993 and still fund the state's education reform package. Adding in Medicaid or other health care expenditures would fairly summarize the dilemmas legislative leaders see throughout the 50 states for 1993 legislative sessions.

Those problems echo the experience of the last few years. Repeatedly in the recent past, revenue and budget estimates alike have proved to be optimistic, as the slow national recovery from the recession has suppressed expected revenue growth and fostered increases in welfare spending. Legislators' expectations for the 1993 session reflect their experience in the 1992 session, and the problems states already are facing in FY 1993 (the 1992-1993 fiscal year).

Revenues and Expenditures in FY 1992; Outlook for FY 1993

General Revenues in FY 1992. General revenue collections were below budgeted levels in 25 states in FY 1992, resulting in a shortfall in collections of $4.9 billion. Serious as it was, this shortfall was less than one-third of the revenue shortfall in FY 1991. The most serious revenue shortfalls were in California and Oregon. State general revenue grew at a rate of 7 percent in FY 1992 rather than the 9 percent forecast for the year.

General Revenue Projections for FY 1993. In writing their budgets for FY 1993, states projected average general revenue growth of 4.8 percent over FY 1992 collections, which would produce about $14 billion in additional revenue for the states. Almost all of the $14 billion was expected to come from economic growth; tax law changes in 1992 would have accounted for very little. Although the states enacted a net increase of $3.9 billion in taxes ($5.3 billion in increases and $1.4 billion in cuts), little of that amount would increase general revenue fund collections. About $1.8 billion of the increase originated in Medicaid provider taxes, which are earmarked to match federal Medicaid funds and are not general revenue. Another $1 billion resulted from postponement of scheduled tax reductions in Louisiana and New York, and does not contribute to net growth in collections over FY 1992. Highway user taxes earmarked for transportation or purposes other than general revenue funds account for $458 million of the increases.[2] These amounts total about $3.3 billion of the net tax increase for FY 1993, leaving at most $600 million in new revenue to accrue to state general revenue funds.

The forecast of general revenue growth of 4.8 percent was not unreasonable. Inflation for FY 1993 is expected to be around 3.3 percent, and moderate recovery in personal income and

Figure 1
Summary of Projected State General Fund Revenues and Expenditures
FY 1991 to FY 1993
(billions of dollars)

	FY 1991	FY 1992	FY 1993
Revenues	$276.5	$295.8	$309.8
Revenue change from previous fiscal year	—	$19.3	$14.0
Percent change from previous fiscal year	3.2	7.0	4.8
Expenditures	$283.2	$299.3	$308.3
Expenditure change from previous fiscal year	—	$16.1	$9.0
Percent change from previous fiscal year	5.2	5.7	3.0

Note: Table includes Puerto Rico, the District of Columbia, and all states except Illinois for each year. For FY 1991, when Massachusetts did not report data, Massachusetts data were approximated.

Source: NCSL, State Budget Actions 1992

consumption would produce additional income and sales taxes that might be enough to meet the expectation of 4.8 percent growth. By October 1992, however, the expected growth clearly was not materializing in all states. Revenue shortfalls, blamed on overly optimistic revenue forecasts, were expected to produce a revenue shortfall of as much as $450 million in Maryland. California, Hawaii, Maine, and Ohio were among the states reporting revenue shortfalls by October, and the governor of Georgia had called for budget cuts in the expectation revenue would fall off there. Thus, the states' experience in the late summer and autumn of 1992 made it seem all too likely that revenues once again would come in below estimates for the fiscal year.

Expenditure Growth in FY 1992. State expenditures in FY 1992 were $16.1 billion higher than in FY 1991, which is about $2.2 billion higher than the originally budgeted growth of $13.9 billion. The rate of growth was 5.7 percent instead of the original projection of 4.9 percent, with the increase over budget largely due to state Medicaid expenditures.

Expenditure Growth for FY 1993. Appropriations for FY 1993 as shown in Figure 1 are $9.0 billion or 3 percent above reported FY 1992 expenditures. This is the lowest nominal growth rate reported since 1983 and is slightly below the inflation rate of approximately 3.3 percent for FY 1993, as projected by the Congressional Budget Office in mid-1992.[3] Real growth in state spending--growth adjusted for inflation--will be non-existent if inflation is at the rate cited and if the budget figures accurately predict future spending. State spending exceeded originally budgeted levels in FY 1992 just as it has in the majority of recent years.

The nominal growth in state appropriations is $5.2 billion below projected growth in general revenue. Much of this growth will be absorbed

in covering state deficits carried forward from FY 1992 to FY 1993. (A number of states can carry deficits forward into the following fiscal year.) California, for example, has projected general revenue growth at about $1.8 billion more than expenditure growth in FY 1993, an amount which helps to cover the FY 1992 deficit. Although individual states' plans vary, the general thrust of state budgeting for FY 1993 is for states with deficits left from the previous year to make them up and for states which ended FY 1992 with positive balances to rely on them to help finance FY 1993 spending.[4]

At least seven states reduced appropriations for FY 1993 below the level of FY 1992 expenditures. Rhode Island's appropriations for FY 1993 are 16.1 percent below expenditures for FY 1992, but this is misleading because one-time revenues allowed Rhode Island to make up some deferred expenditures in FY 1992 (when expenditures were 20 percent above those of the year before). The largest cut other than Rhode Island's is in California, where the budget calls for 5.2 percent less general fund spending for FY 1993. New Jersey's budget reflects a net cut to help absorb the sales tax reduction enacted in 1992.

The states' fiscal condition is very weak. Reserves are at a record low. Medicaid, corrections, and education spending have grown faster than average spending, meaning that resources continue to be shifted into those areas. State budget actions for FY 1993 represented a holding action rather than an attack on fundamental issues, a result of election year politics and a discouraging economic outlook.

Leading Fiscal Issues for 1993

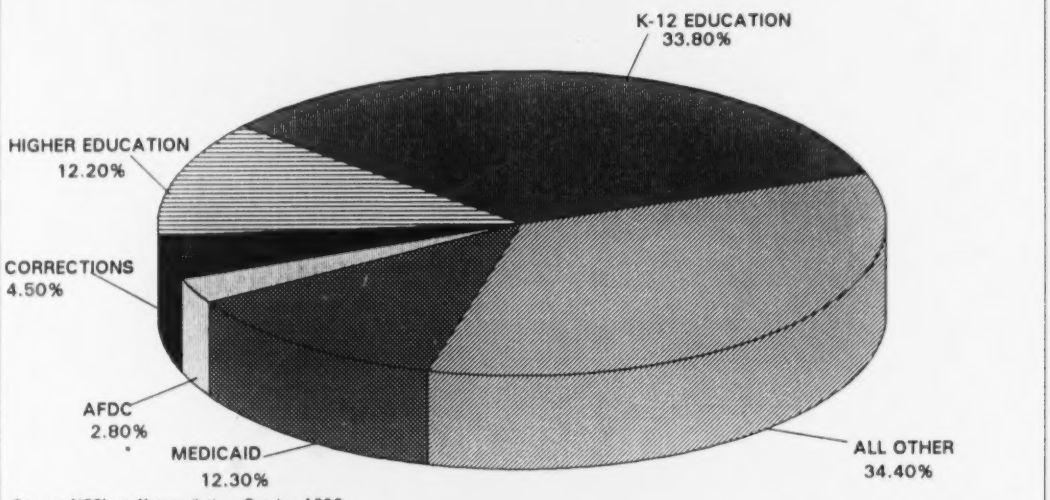
Health care, Medicaid finance, and education funding (or funding for education reform) are major issues in almost every state. Although local circumstances can make one temporarily more important than another, they are locked together by the demands for spending increases and slow revenue growth. It is not an overstatement to say that until education and Medicaid funding are settled, no state budget can be written. All other pieces have to be fitted to those.

The reasons are simple. Elementary, secondary, and higher education receive almost 50 percent of state general fund money every year (Figure 2). Since this proportion changes very little from year to year, about half of the average state's general fund growth, in the absence of tax increases, goes to education. Medicaid gets a far smaller share of state general fund money--12 percent or 13 percent--but as an entitlement program its growth demands also have to be met and they have been voracious. In years of low revenue growth, Medicaid can consume all the new revenue, short of legislated tax increases, that does not go to education. State Medicaid spending for FY 1992, for example, grew at an average of 28 percent over the previous year, while general fund revenues grew at 7 percent.

At least 11 states expect Medicaid spending to grow more than 20 percent in FY 1993. Not all of the Medicaid expenditure growth is financed by general funds--many states have used the new and risky device of taxes on medical service providers to supplement general funds. But these new taxes are used precisely because state general funds cannot both support the growth in Medicaid expenditures and also continue to spend on the environment, economic development, higher education, corrections, and welfare.

Medicaid and Other Health Care Issues. Medicaid probably ranks higher than education as a source of anxiety and frustration for legislators because of the limited control they seem to have over the program. When legislators rank unfunded federal mandates high on their list of concerns, they are generally thinking of Medicaid; when they worry about health care costs, federal matches to state spending, or rulings from the federal Health Care Financing Administration (which manages Medicaid), they're on the same subject. Concerns about Medicaid are unquestionably the single most worrisome issue of federal-state relations in 1992 and will be in 1993. An Illinois legislator stated, "We have not yet devised an innovative approach to pay for Medicaid....The federal

Figure 2. Major Components of General Fund Appropriations for FY 1993



Source: NCSL staff compilation, October 1992

government's disallowing our prior health care assessment plan...has had a very harmful impact on our state budget." A Virginia senator cited "increased mandates by the federal government of $500 million additional for our share of Medicaid. We have no new monies." Medicaid is of course only part of the larger issues of health care and welfare. A representative in a small Western state expressed the frustration that many legislators feel:

> *The public demands better health care. They cannot afford it but they think the state can. We've assumed the indigent health care program once funded by counties...but the uninsured unrealistically demand more. Funding pregnant women's and children's programs in our state means that in 1991 the state paid for one-third of the delivery charges for all children born in our state.*

Education Issues. Legislators report that accountability and reform in K-12 and higher education will be major themes in 1993 legislatures, but that funding increases for education are likely to be limited to amounts existing taxes produce. That means that legislators have to find a way to reconcile the issues that a Pennsylvania representative lists: minimal revenue growth, competing demands for state funds, and proposed changes to current methods of distribution.

Reconsideration of school aid formulas will take center stage in many legislatures; about half the legislative leaders who responded to NCSL's survey reported that the issue is likely or almost certain to be reopened. In Illinois and Pennsylvania, legislators will reconsider their state formulas for equalizing school funding. Although Illinois voters defeated an equalization proposal that would have led to a greater state funding share, that issue is likely to continue; Pennsylvania legislators will consider shifting more responsibility to local taxpayers. Missouri will concentrate on assistance to financially distressed districts, with consolidation a possible element of the solution. Montana also will explore the explosive subject of school district consolidation (there are 533 districts, one for every 1,501 Montanans). Texas legislators will continue to struggle to comply with state supreme court orders requiring improved school funding equalization; the court has already rejected two

previous legislative attempts to provide a constitutional system. However, fewer than one legislator in 10 expects a tax increase for K-12 education, and a Maryland legislator pointed out that the state's fiscal difficulties may lead to reductions in school aid. Fiscal stringency is likely to hamper efforts at reform since, as a Wisconsin legislator put it, education reform is "a question of *money* and where it comes from as well as an increase in standards and quality."

Other specific education finance issues that states will likely consider include:

- Lump-sum budgeting for public schools and reorganization of the administration of the Department of Education (Hawaii);
- Local option education taxes (Indiana);
- Maintaining funding for the reform program in the face of state budget shortfalls (Kentucky);
- Dedicated funding for education, including the possibility of adding dedicated funding for higher education in the constitution, and the alternative possibility of ending all dedicated funding that now exists for education (Louisiana).

State-Local Fiscal Relations. As this report indicated a year ago, the slow recovery from the recession has dealt a blow to state aid to local governments in areas other than school finance. Before the recession, states were making some progress in replacing the federal aid to cities and counties that had been lost as federal priorities shifted in the 1980s. Because approximately 90 percent of state aid to local governments is for education and welfare programs (including Medicaid in some states), local governments have had to struggle to replace federal aid for infrastructure, the environment, and housing. The recession that began in 1990 made the situation worse.

Public health, safety, and education tend to be the superseding priorities for legislators. Local governments, forced to compete with Medicaid, corrections, and education in times when revenues are flat, are unlikely to be winners. In some cases, formal limits or political resistance to property tax increases have further complicated local governments' funding problems.

Local government issues are not legislators' top priority for the straightforward reason that their primary responsibility is to help govern a state. But state and local governments are entangled in many ways. State government helps define local governments' power to tax, within state constitutional limits. State governments relieve local governments of responsibilities for some services from time to time; it hardly ever works the other way. Local property tax limits shift funding and service responsibilities to state governments.

The *Issues Outlook* survey found that legislators have complex attitudes toward local governments. Some lawmakers are frustrated with voters' resistance to the property tax. As expressed by a western legislator:

> *We have many property owners, especially farmers, who pay very little sales tax (they're exempt) and very little income tax (they reinvest profits) and they hate property taxes.*

Some states, like Nebraska, have unique problems. There, a string of court cases has ruled unconstitutional the statutes governing the taxation and exemption of personal property, so property tax issues remain high on the legislative agenda.

Over half the respondents ranked as very important the question, *How important is resistance to local property taxes in your state?* Some states have found policies to help contain resistance. As a Maryland senator explained, "We have a circuit breaker which has held down resistance; also we imposed a cap on increases for owner-occupied properties."

Legislators aren't about to rock this particular boat. They would be very reluctant, for example, to cut back on property tax relief programs, as shown later in this report. Such tax relief is a form of subsidy to local governments, presumably letting local governments levy higher taxes than they could otherwise, and to some degree preventing or reducing discontent with property taxes.

But the survey on legislative priorities also makes it clear that if state budget cuts have to occur, one target will be aid to local governments for purposes other than education. Legislators tend to doubt that the fiscal problems of local governments are extremely serious and are skeptical of charges that local fiscal problems are caused by unfunded state mandates. Few legislators think that disparities in local governments' tax bases are serious enough to affect their ability to provide basic services, although problems of service delivery may be acute in rural areas. The western legislator quoted above seemed to suggest that rural governments could be hard hit, and a Missouri lawmaker was specific about rural problems in that state:

> *Most of the poorer counties are largely made up of agricultural classified property which is assessed at a lower percentage than commercial or residential. Local sales tax bases in these poor counties are contracting due to loss of retail activities. At this time, some Missouri counties are unable to provide basic services.*

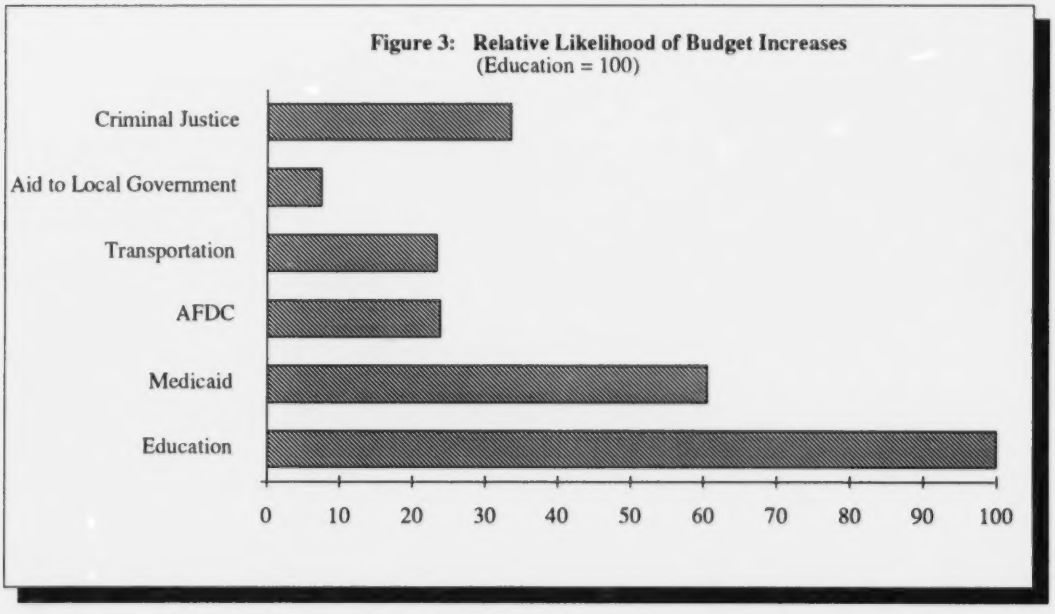
Local governments are likely to find little fiscal relief coming from state governments in 1993. Legislators recognize that local governments have problems which are acute in large cities and in western rural areas, but general budget problems, health care finance, and Medicaid are likely to be much higher priorities in 1993. These priorities stand out when *Issues Outlook* respondents identified program budgets most likely to be augmented if budget increases were possible in 1993--education came in the clear winner and local government far at the bottom of the list (Figure 3).

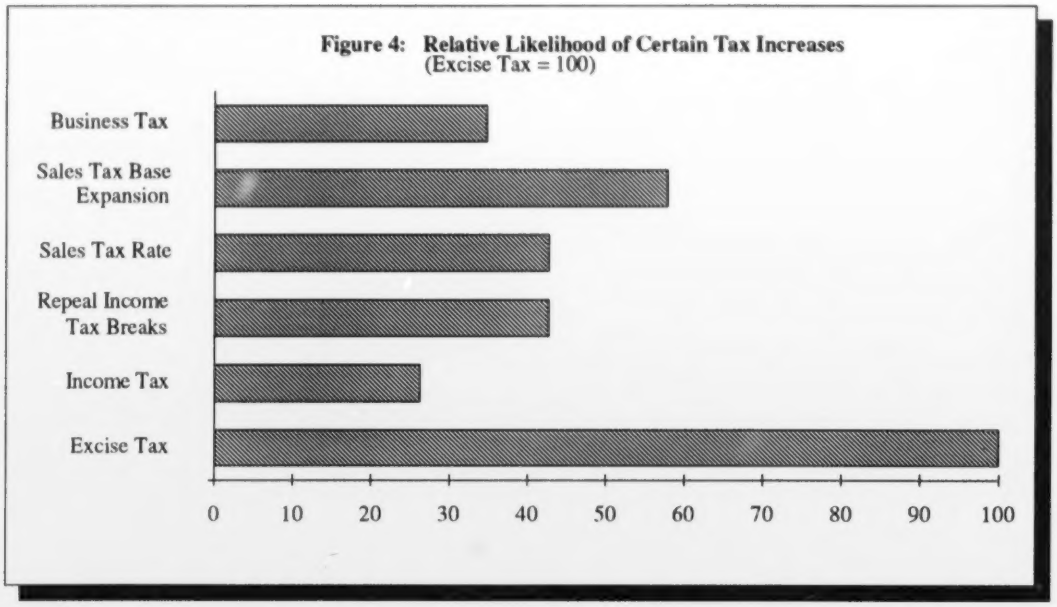
Managing the Budget in 1993

Taxes. With few exceptions, legislators plan to manage any 1993 budget problems with cuts in expenditures rather than tax increases--by a 10-to-1 ratio among *Issues Outlook* respondents.

Many legislators also believe that revenues will be insufficient to meet budget plans in the current fiscal year and that over the next five years revenue growth in the absence of tax increases

Figure 3: Relative Likelihood of Budget Increases
(Education = 100)





will not match the growth in cost of maintaining current levels of services.

Further, legislators generally report that if a tax increase were to become necessary, as defined by the respondent, the most acceptable increase would be in excise taxes--a poor provider of revenue--and the least acceptable would be income and sales tax rate changes--the most productive kinds of tax increases (Figure 4).

All this might sound like political rhetoric if it did not correspond so closely to the actions of legislatures and governors in 1992. As indicated previously, tax increases in 1992 were minor. The shortfalls of FY 1992 were accommodated with budget cuts and the rearrangement of priorities, and legislators enacted austere budgets for FY 1993. Some of this restraint was no doubt due to election year pressures; but in 1990, those pressures did not prevent what NCSL measured as the biggest tax increases since 1983.

In several states, however, *Issues Outlook* respondents reported major tax issues other than K-12 property tax reform that will be on the legislative agenda in 1993, including:

Alabama. A 21-member bipartisan commission will present a comprehensive plan to reform both the taxation and education systems in the state. The plan will require legislative approval and then a statewide referendum for adoption.

Colorado. Lawmakers will wrestle with the implications of a complex tax limitation initiative that was passed by voters in November.

Connecticut. The newly enacted income tax is slated for major "repairs," including a substantial shift in tax burden from middle income taxpayers to those earning more than $200,000.

Montana. Broad tax reform will be addressed before submitting a referendum to voters to establish a state sales tax.

New York. Additional taxing powers will be considered for local governments.

Oregon. A major tax reform package will be referred to voters to deal with revenue shortfalls caused by property tax limitations.

Pennsylvania. Business tax cuts will be proposed to stimulate jobs.

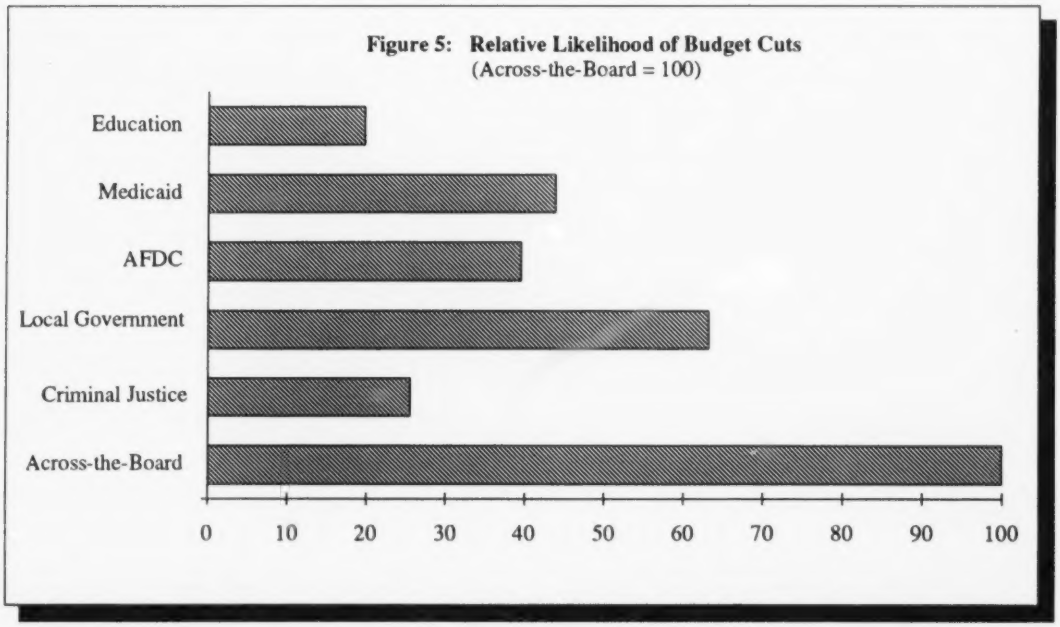
Lotteries. And what about a non-tax measure--state-sponsored lotteries--to increase revenues? Among states that already have lottery games, respondents roughly split over expanding the games to increase state revenues, with a slight majority opposed to expansion. Among states that are not sponsoring lotteries, respondents opposed authorizing them as a revenue measure by a two-to-one margin. Lotteries did not appear as a priority among *Issues Outlook* respondents this year, except in Indiana, where dedication of lottery funds to infrastructure capital improvements, rather than transfer to the general fund, will be a major issue. In Colorado, this issue was settled in November by a ballot initiative, in which voters strongly mandated dedication of all lottery revenues to state parks and other outdoor recreation needs. Also in November, Nebraska voters gave approval for a state lottery, and South Dakotans retained video lotteries.

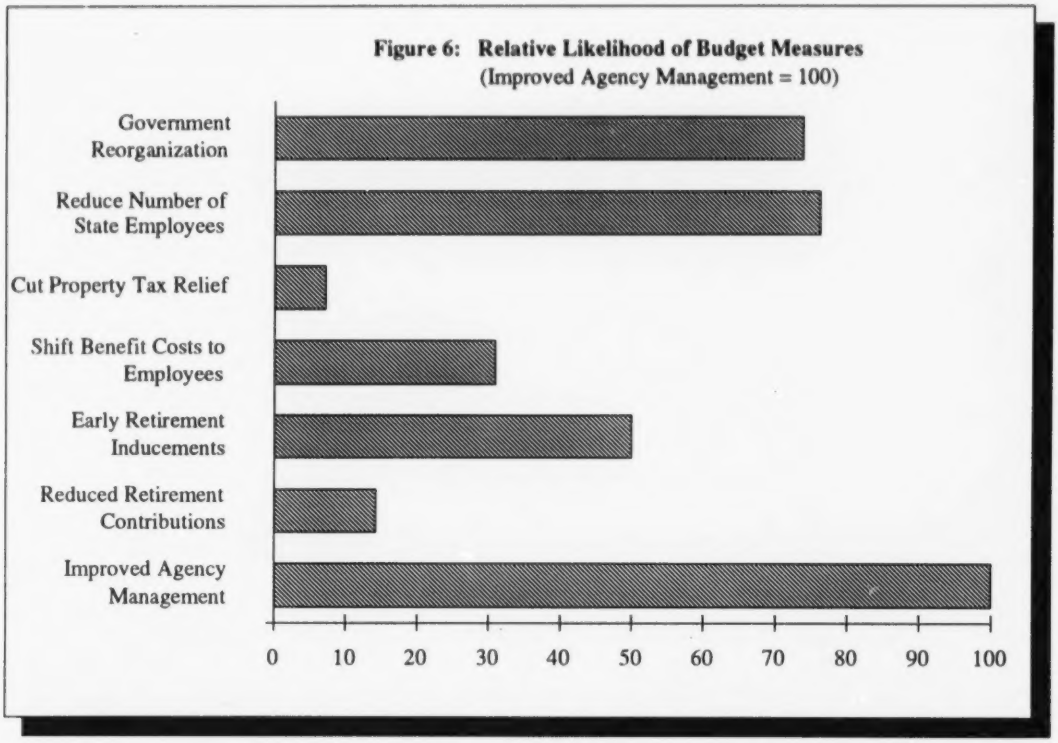
Budget Cuts. Managing without revenue increases is likely to require reduced spending in some areas to accommodate increases that are hard to avoid for Medicaid, K-12 funding formulas, corrections, and such entitlement programs as AFDC. NCSL's *State Budget Actions 1992* reports that general fund appropriations for each of those areas grew faster than overall appropriations for FY 1993, as they have in most recent years. States' concentration of resources in those areas pinches other areas: Appropriations for higher education, for example, are lower for FY 1993 than they were for FY 1992, and some general fund spending was at the expense of lower state contributions to employee retirement funds.

If budgets have to be cut in 1993, how would the cuts be made? *Issues Outlook* respondents as a whole identified "across-the-board" cuts as most likely. Local governments would be advised to promote that strategy, because local government support otherwise will be the first target for state funding cuts, followed by Medicaid or other health services, AFDC/ general assistance, criminal justice, and education (Figure 5).

But less hypothetically, who actually expects cuts in aid to local governments (our leading candidate for budget reduction)? Legislative leaders in California, Illinois, Maryland, and

Figure 5: Relative Likelihood of Budget Cuts
(Across-the-Board = 100)





Michigan reported the greatest likelihood, as well as in Louisiana, Maine, New Jersey, New York, Oregon, and South Carolina.

Legislature's Budget. More than 40 percent of the legislative leaders said that their legislature's own budget is likely to be reduced in 1993, and in almost every case they reported that the likelihood of such cuts will be equal to or greater than cuts in aid to local governments.

Other Budget Targets. When legislators ranked measures that cut across program or agency lines that might be relied on to save money in the face of continuing fiscal difficulty, the following order emerged (Figure 6):

1. Improved agency management techniques
2. Government reorganization
3. Reduced numbers of public employees
4. Early retirement programs
5. Reduced contributions to public employee pensions
6. Shifting health insurance and pensions costs to public employees
7. Cutting back on property tax relief programs.

More than anything else, these responses reflect the difficulty of the decisions that await legislators who may have to reduce spending for the current or the coming fiscal year in their 1993 sessions. The actions they would prefer to take--cutting Medicaid, for example, or relying on improved management techniques and government reorganization--are either close to impossible (in the case of Medicaid) or of so little immediate fiscal impact as not to solve any short-term problems.

Medicaid and other health care cost containment is essential in the long run, and so is improved government management. But years of concern over these issues have yet to yield decisive results, and it is unlikely that actual savings can be found during 1993 legislative sessions.

The courses that can produce major savings are not popular. Education is where the money is, but cuts are very difficult. The last three options under *Budget Targets* above offer potential savings in the short run, but they are far from attractive for political and management reasons. There are no easy solutions.

Notes

[1] Corina Eckl and Scott R. Mackey, *State Tax Actions 1992* (Denver, Colo.: National Conference of State Legislators, 1992) and Anthony M. Hutchison, Arturo Pérez, and Ronald K. Snell, *State Budget Actions 1992* (NCSL, forthcoming).

[2] Eckl and Mackey, *State Tax Actions 1992*.

[3] U.S. Congress, Congressional Budget Office, *The Economic and Budget Outlook: An Update* (Washington, D.C.: Government Printing Office, August 1992) p. 23.

[4] State deficits, see Ronald K. Snell, *Do State Balanced Budgets Really Happen?* (NCSL, forthcoming).

NCSL Staff Contact: Ronald K. Snell, Fiscal Affairs Program Director (Denver Office)

As the single largest item in state budgets, education absorbs almost half of state general funds nationally and up to 70 percent in some states. In FY 1993, K-12 education will receive approximately $110 billion from states, and higher education will receive almost $40 billion.

Education finance therefore is always a legislative priority, and in 1993 it will be especially dominant as most states confront yet another year of stagnant economies and overall budget cuts, while striving to respond to the national call for educational improvement in public schools.

More than 80 percent of *Issues Outlook* respondents identified K-12 education finance as the top education priority, with particular emphasis in many cases on revising the school finance formula to achieve more equitable funding levels among all school districts.

A decade after *A Nation at Risk* sounded the alarm, educational improvement remains a top legislative priority, and many states are embarking on a third wave of educational initiatives that seek fundamental change, treating "education" as a continuum of growth that begins before birth and continues throughout the life of every individual. With this perspective, *Issues Outlook* respondents ranked *school readiness and early childhood education* as the next priority after financing, declaring clearly that many states will seriously pursue educational improvements beyond the traditional classroom concerns. Lawmakers will be seeking the most effective ways to integrate educational and social services as "children's services" that encompass maternal and child health, family support, and educational instruction.

Next in priority for 1993 are: *K-12 education reform* and restructuring, including site-based management, outcome-based assessment, curriculum, governance, and school choice; *post-secondary education*, especially student financial aid and accountability of higher education institutions; and issues concerning *teachers*, such as certification, pensions, recruitment, and retention. Figure 7 shows the states where specific education policy initiatives are likely in 1993, according to legislative leaders surveyed.

Financing K-12 Education

There are diverse financing issues in the states, including raising new revenue, finding new revenue sources, shifting the funding burden, and reconstructing state finance formulas. Over half of the respondents said their state is likely to consider a major change in the school finance formula in 1993. Kansas, for example, will examine the proportionate share from local and state sources. In Vermont, legislators will be looking at replacing the local property tax with a local income tax. An interim study committee on K-12 school finance equity will report to the 1993 session in South Carolina.

In many cases, the possibility of litigation looms over legislative finance decisions as the courts have become increasingly active in education policy and the resolution of disputes over equity and adequacy. If state legislatures do not take preventive action, they are forced to deal with the costs and time constraints of litigation and the pressures of making policy under court scrutiny.

More than 20 states currently are involved in school finance litigation. Some states have faced multiple court actions. In Ohio, three lawsuits have been filed challenging the financing system. A study of the Ohio funding formula commissioned by the governor's Education Management Council will give recommendations to the legislature before the 1993 session begins.

In Texas, where the Supreme Court has ruled the state's finance formula unconstitutional and rejected three subsequent plans, the legislature has until June 1, 1993, to put a constitutional plan into effect. Early in November, Governor Ann Richards, Lt. Governor Bob Bullock, and House Speaker Gib Lewis announced a plan that would shift $400 million in local tax revenues from the richest school districts to property-poor districts. The plan requires an amendment to the state constitution authorizing the tax transfers between districts. The amendment must be approved by the Legislature by February 20 to qualify for the May 1 election ballot.

Figure 7: Selected Education Policy Priorities for 1993

	Comprehensive Reform Package	Major Changes to Finance Formula	Education and Social Services Collaboration	Consider K-12 Tax Increase	Accountability for Higher Education
Alabama	■	■		■	■
Alaska	■	■	■		
Arizona	■	■	■		■
Arkansas			■		■
California	■	■	■	■	■
Colorado	■	■	■		■
Connecticut	■	■	■		■
Delaware	■	■	■	■	■
Florida		■	■		■
Georgia			■		
Hawaii	■	■	■		
Idaho			■		■
Illinois		■			■
Indiana		■			
Iowa	■	■	■		■
Kansas	■	■	■	■	■
Louisiana			■		■
Maine	■	■	■	■	
Maryland		■			■
Michigan	■	■	■		
Minnesota	■	■	■		■
Missouri		■			■
Montana	■	■			■
Nevada			■		■
New Hampshire		■			
New Jersey	■	■			
New Mexico			■	■	
New York			■		■
North Carolina	■	■	■		
Ohio	■	■	■		■
Oregon			■	■	■
Pennsylvania	■	■	■		
South Carolina		■	■		■
South Dakota	■				
Tennessee			■		■
Texas		■			■
Utah	■				■
Vermont	■	■	■		■
Virginia		■			■
Washington	■		■		■
West Virginia			■		
Wisconsin	■		■	■	■

An additional dilemma in school finance is a growing reluctance of the public to support any tax increases, including increases for education. Public support for additional school funding must be grounded in a conviction that the schools are inadequate and more money will yield desired improvements. However, despite widespread criticism of the nation's public schools in general, most Americans appear unconvinced that their own schools are weak.

A recent Gallup poll found that 51 percent of the parents of public school students give the schools in their communities a grade of A or B. That number jumps to 81 percent if the parents have three or more children in public schools. The same poll found, however, that only 21 percent of respondents give A or B grades to public schools *nationally*. Thus, while voters may accept that inferior schools are a national shortcoming, they believe schools in their own community are good.

Public satisfaction with their own schools, combined with general skepticism about the fiscal responsibility of any tax-supported institution, has made voters increasingly unenthusiastic about local and state tax increases for education. In Colorado, for example, voters in November handily rejected a ballot initiative to raise additional revenues for schools via a one-cent sales tax increase despite vigorous support from the state chamber of commerce, the League of Women Voters, the governor, and many other prominent public officials.

Tax increases are unlikely choices for alleviating school funding problems in 1993. Only 12 percent of the *Issues Outlook* education respondents thought it likely that tax increases would even be considered in the upcoming session, let alone adopted. Education funding from the state, therefore, is unlikely to increase while overall fiscal conditions remain austere. California and Florida are worried, too, that federal funding will be woefully inadequate to serve the number of immigrants arriving in those states.

School Facilities. Several states, including California, North Carolina, Vermont, and Washington, will be dealing with legislation to improve education facilities. South Carolina will have a $400 million bond issue for higher education, community colleges, and public school facilities.

As schools assume roles beyond just that of teaching centers, the need for adequate facilities grows even stronger. A recent study by the American Association of School Administrators, *Schoolhouses in the Red*, reports that one in every eight school buildings is inadequate in some way. As many as five million public school students attend class in buildings that are structurally unsound or environmentally unsafe. Almost 75 percent of public schools were built either before World War II or during the 1950s and 1960s. The need for capital improvements will place more pressure on the states' already strained budgets.

School Readiness

After school financing, school readiness is the highest education priority for legislative action in 1993. School readiness has been strongly promoted by the nation's governors, who declared goal number one of the National Education Goals to be that "all children in America will start school ready to learn." Nearly 80 percent of our respondents said that collaboration between education and social services in the delivery of "children's services" will be an important issue in 1993. In South Carolina, the At-Risk Student Study Commission report to the 1993 session will address school-linked family services.

The emphasis on readiness stems from growing evidence that the child's preschool environment is crucial in determining educational success. Success in school is not only a product of intellectual stimulation, it is also a reflection of the quality of the child's health, family surroundings and emotional conditions. In responding to the readiness challenge, states are giving increasing consideration to the integration of children's services. Rather than meet the education, health, psychological, and social needs of children separately, the philosophy is moving toward meeting the needs of the "whole child." In these difficult economic times, it is not surprising to see the popularity of the movement toward integration of services. The collaborative approach can be an effective and economical way of delivering services to children.

The challenge for legislators will be in overcoming the many political and structural obstacles that prevent them from making policy in a comprehensive manner. This is particularly true in education and human services, where issues are separated not only by legislative committees, but also by large state and local bureaucracies offering separate services.

Perhaps the most significant readiness program has been the federally funded Head Start program. Head Start, however, reaches only about one-third of eligible 4- and 5-year-olds. Several states are appropriating state funds to expand Head Start and similar preschool programs.

There are many state examples of readiness programs. Two of the best known are the Missouri Parents as Teacher program, which works with parents inside and out of the home on child development and learning processes, and the Home Instruction Program for Preschool Youngsters (HIPPY), underway in several states, which also uses home visits to help prepare 4- and 5-year-olds for learning.

Several states have given priority to linking education and social services for school-aged children. Kentucky's Family Resource and Youth Services Centers provide a core set of services, ranging from child care to employment counseling, training, and development. The centers will refer students for medical, educational, social, mental health, and family support services, and will coordinate service delivery with existing community, regional, and state agencies. All eligible schools (at least 20 percent of the student body eligible for free meals) will have a functioning center by 1995.

The New Jersey School Based Youth Services Program began with projects serving 13- to 19-year-olds and is being extended today to middle and elementary schools. The sites provide a variety of services including counseling, employment and training assistance, and primary and preventive health services.

Other school readiness issues facing the states include legislation to enhance parental involvement in education, legislation implementing or expanding school-based health services for children, before and after school child care programs, and school safety issues.

Education Reform

Education reform ranked third overall among the education policy priorities for 1993.

Comprehensive Reform Plans. Fifty-six percent of the respondents said that considering a comprehensive package of education reforms will be an important issue for 1993.

Similar to the trend in school readiness, the education reform debate has been characterized by its focus on comprehensive reform. The trend is toward "systemic" reform, which takes a comprehensive, coordinated and long-term approach to changing the entire education system, not just pieces of it. In 1992, Oregon, Kansas and Tennessee adopted major comprehensive reform packages. The challenge for those states in 1993 will be implementing the reforms.

States that indicate they are likely to adopt comprehensive reforms in 1993 include Colorado, Iowa, Idaho, North Carolina, Ohio, Pennsylvania, and Washington. California and Florida expect to consider comprehensive reform proposals. In Alabama, a bipartisan commission has been preparing a comprehensive plan to reform the state's systems of taxation and education. Adoption of the plan will require legislative approval and passage of a statewide referendum. Broad education reform recommendations by special commissions, task forces or interim committees also will be submitted to the legislatures in Illinois, Ohio, and Washington.

Outcome-Based Assessment. One of the most popular trends in education reform has been the shift to "outcome-based" goals and assessments. Nearly all the respondents to the education survey indicated their states are likely to deal with this issue in 1993.

Outcome-based education (OBE) focuses on a series of outcomes or goals that students must master before graduating. These outcomes replace specific courses that students are required to take. Rather than mandating "seat time," OBE defines what students should know to graduate.

Several states are already experimenting with OBE. In 1992, Pennsylvania adopted statewide learning outcomes. Students will be required to meet roughly 60 goals, including traditional math, science and English achievement, self-worth, information and thinking skills, learning independently and collaboratively, and ethical judgment. Minnesota is moving to establish statewide "results oriented" graduation standards that will require demonstrated achievement of certain outcomes rather than completion of certain courses. Minnesota's novel charter schools also require an outcome-based approach.

Oklahoma has mandated all schools to be using an OBE process by 1997. In its major education reform act, Kentucky voted in 1990 to phase in an outcome-based plan over five years. A state-wide committee has developed 75 valued outcomes that support six broad learning goals. The Kentucky Department of Education is now designing curricula for achieving the outcomes.

Site-Based Management. Several states will continue to consider legislative implementation of site-based decision making (SBDM). SBDM represents the popular philosophy of the 1980s of decentralizing school governance and involving teachers and parents in school decision making. While many states and districts have already incorporated site-based management into public school reform, other states will continue to deal with it, including California, Colorado, Florida, Iowa, Illinois, Kansas, Mississippi, North Carolina, New Hampshire, Ohio, South Carolina, Tennessee, Utah, and Washington.

School Choice and Vouchers. Two of the most controversial reform issues have been school choice and school vouchers. School choice allows parents and students to choose which public school they want. Vouchers provide parents with state money so they can choose the public, private, or religious school best for their child. The concept of choice has received some support in the states, and several states expect to take up proposals in 1993, including Arizona, California, Florida, New Hampshire, New Jersey, New Mexico, Ohio, South Carolina, Utah, Vermont, and Washington. In Utah, an education choice task force will report to the Legislature. Voucher programs, however, remain extremely controversial. Voters in Colorado, Michigan, Oregon, and Washington, D.C., have rejected voucher initiatives by large majorities.

Voucher systems currently exist in only a few locales and on a very limited basis, and the *Issues Outlook* survey indicates this pattern is likely to continue. States most likely to deal with vouchers as a major issue include California, Idaho, New Hampshire, Tennessee, and Washington. In California, an initiative to establish a voucher system has qualified for the June 1994 ballot.

Other Education Reforms. School board reform is an issue just beginning to receive attention. One new report issued by the Institute for Governmental Leadership calls for states to rethink school governance systems and the value of school boards. So far the issue does not appear to be on many legislative agendas, although respondents from Florida, Kansas, and Tennessee report some likelihood of action in this area in 1993. In addition, reorganization plans for state departments of education are likely to be advanced in Delaware and Hawaii. Similarly, the consolidation of school districts is a priority for only a few states, including Kansas, Montana, and North Dakota. Legislatures do not appear ready yet to venture too far into these controversial issues.

Curriculum reform in science and math is another area that has gained attention, primarily through the National Education Goals. The education survey shows this to be a diverse issue for the states in terms of priority, but likely to receive some legislative attention in 1993, particularly in Colorado, Florida, South Carolina, and Vermont.

Post-Secondary Education

Higher education ranked fourth in the *Issues Outlook* education survey as a priority for legislative action in 1993. While state legislatures in the past have generally respected "academic non-intrusion," recent trends suggest that lawmakers are becoming more involved in higher education issues. Montana, North Dakota, and Ohio are among the states expecting to undertake restructuring of their higher education systems. Better coordination of K-12 education

programs with post-secondary programs will be addressed in Kansas and Michigan.

Tough economic times have hit higher education hard. In 1992, a national decline in the actual dollars appropriated for higher education was reported by the states for the first time. Tight state budgets have forced legislatures and public colleges and universities to consider such options as increasing class sizes, increasing tuition, implementing enrollment caps, cutting programs and personnel, and deferring equipment purchases and maintenance. "Higher education sustained a $45 million cut of a $93 million reduction to balance the FY92 budget," a Louisiana legislative leader reported. In the wake of this staggering cut, higher education is expected to push for funding protection in the state constitution.

At the same time, legislatures have become more concerned with the accountability of higher education institutions. This includes concern over large classes, access to faculty, faculty teaching loads, and faculty tenure. Half of the legislative leaders and education respondents in our survey said that increased accountability for public higher education institutions will be an important issue. Forty percent of the education respondents said their states are likely to consider the issue of faculty workloads, and 44 percent said they will likely examine faculty salaries.

In assessing the economic future for higher education in the states, most *Issues Outlook* respondents foresee a moderate to high probability that state funding for higher education will be cut in 1993. In almost all cases, the reduction is expected to be less than 5 percent. However, in some states that would compound cuts made last year. In California, even larger cuts are expected, perhaps more than 10 percent.

More than 60 percent of survey respondents expect tuition hikes in 1993 but only about one-third said their state is likely to consider enrollment limits in 1993. In general, states are no longer dealing with the issue of college savings plans, but student financial assistance is another story. Nearly half the respondents reported that financial aid and loans will be a high priority in 1993. As tuition at public higher education institutions rises, states will be called on to address the issues of access and affordability. Legislatures will be hard-pressed to ensure the availability of adequate financial aid.

Teachers

Issues regarding teachers and teaching will be a moderate priority in the states in 1993. States where this topic is high on the education agenda include Florida, Kansas, North Carolina, Pennsylvania, South Dakota, and Washington. Lawmakers in South Carolina will receive reports from the Teacher Training and Educational Leadership task forces. The individual teacher issues receiving most attention in the states will be teacher retention and alternative certification. Legislative action on three additional teacher items--recruitment, pensions, and initial certification--is likely in some states, including Florida, Kansas, North Carolina, Vermont, and Wisconsin.

Finally, legislators overwhelmingly cited "federal mandates without sufficient funding" as their major concern with federal education policies and actions that affect the states. State lawmakers also are concerned about federal efforts to develop national education standards and the lack of coordination with state initiatives.

We can expect 1993 to bring more pressures on legislatures to adequately and equitably fund schools; to continue to enact significant education reform measures, including a reorganization of children's services; and to continue to face difficult decisions regarding higher education finance and accountability.

NCSL Staff Contact: Julie Davis Bell, Education Program Manager (Denver Office)

Health care reform remains a dominant issue for state legislatures in 1993, just as it is for the federal government. The nation's health care system is too costly, serves too few people, and takes a big bite out of state budgets. While reforming health care is the top priority among many states, comprehensive changes will be difficult to adopt.

Health reform poses a dilemma for legislatures because increasing access and controlling costs can be conflicting priorities. Legislators must tend to beleaguered state budgets, burdened by increased Medicaid costs. At the same time, lawmakers are striving to meet the needs of their constituents, as the American public clamors for better access to basic medical care and health insurance coverage for all.

Health reform has been brewing since the late 1980s, with cost containment being in and out of vogue in the legislatures for over 10 years. What has changed is that access to health care has become a problem not only for the indigent, but also for employers and the middle class.

While states may not accomplish major reforms in the near term, a tenacious political will prevails across the county to effect major changes in the health care system in the long run. Even in California with its grave fiscal worries health care reform remains an issue of intense interest in the Legislature, with at least three major access bills introduced during the 1992 session.

The Federal Role. Some state leaders believe it should be the responsibility of the federal government to fix the system. One legislator commented that "the health care problems in this country will require a national consensus and a national solution." Other legislators are not so eager to have a federally run health care system.

Legislators are frustrated over federal inaction and meddling with state innovations. "Often the feds think they can accomplish certain goals and they never do, but in the process they keep the states from accomplishing these goals themselves," responded a legislator in the *Issues Outlook* survey. Many of the legislators who responded are impatient with the ambivalence and lethargy of the federal government in improving health care access and are moving forward with their own solutions. Said a lawmaker from a Midwestern state, "Our biggest concern is the various roadblocks federal health care policies place in the way of our adopting a fair way of attaining universal health care and cost containment."

The denial in August of 1992 of the federal waiver for the Oregon health plan, which prioritizes services, was a disappointing setback in that state's efforts to increase health care coverage, said a Republican Oregon state legislator. "Years of hard work are down the drain and services will be drastically reduced without the federal waiver for the Oregon plan." As a result, the legislator said, the state will probably raise the income eligibility for nursing home care and eliminate dental care and many medical supply benefits for the poor including oxygen.

The Oregon plan would expand Medicaid to 120,000 additional Oregonians beyond current Medicaid recipients. It would do this by limiting payment to include preventive care and a priority list of essential treatments which are ranked according to cost, impact on quality of life, and medical effectiveness. It includes mandated employer coverage for another 320,000 uninsured workers. Oregon health officials submitted a revised plan in November to address federal concerns about its approach to coverage for people with disabilities.

State Approaches. Legislators want to address the desperate need for reform, but, partly due to federal obstacles, seem unable to implement comprehensive programs in the short-term. So states continue to scramble, sometimes in opposite directions, to solve the health care problem.

More states may implement managed care programs to control Medicaid costs and global budgets, in which health care providers are required to operate under finite budgets set by a governmental health care authority, to reduce medical costs. They may regulate the insurance industry to increase access, tax health care facilities to raise revenue for Medicaid, tax business to pressure them to provide coverage for

their employees, and develop subsidized insurance plans to increase access to health care for children and pregnant women. But an *Issues Outlook* respondent in the Southeast reflected the widespread frustration with such incremental reforms being pursued in his and many other states: "Health care will improve, cost containment will improve, but neither will improve enough."

Expanding Access to Health Care

Expanded access to health care and cost containment constitute the twin priorities for health care reform in 1993. Yet, comprehensive changes to improve access are less likely than actions to control the unrelenting increases in health costs. As a legislative leader in Missouri remarked, "The continuing lack of coverage for a large portion of the state's population will keep this issue before the state. There has been, however, a continuing failure to solve the problem."

Nevertheless, *Issues Outlook* respondents in many states consider effective expansion of access to health care a major priority for 1993. They include Arizona, Illinois, Kansas, Michigan (where a legislative leader reports 800,000 residents, including 250,000 children, as either uninsured or underinsured), Minnesota, Missouri, Montana, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Utah, Washington, and Wisconsin. Access to rural health care, in particular, will be a priority issue in Colorado, Illinois, Montana, New York, Oregon, Pennsylvania, Texas, and Washington.

In the absence of states' ability to adopt comprehensive reforms, likely action will occur on an incremental basis with children being the first in line for coverage. The most likely measures to increase access will be directed toward the private sector, including employers and the insurance industry. More than 60 percent of the *Issues Outlook* health care respondents consider adoption of measures aimed at the private sector likely. Minnesota, New Jersey, Oregon, Utah, and Washington are among the states most likely to act in this area.

Expansion of Medicaid eligibility or services is less likely in most states--in fact, more restrictive eligibility for Medicaid recipients may occur in some states as a cost-saving measure. Expansion of eligibility or services through Medicaid or a state-sponsored program will be a high priority, however, in Georgia, Minnesota, Montana, New York, Oregon, Texas, Utah, and Washington, among other states.

Comprehensive Reform. To date, only a few states have enacted laws that take a significant bite out of the uninsured problem--among the most prominent plans are those of Florida, Hawaii, Massachusetts, Minnesota, Oregon, and Vermont. Because of Hawaii's successful program, the state has one of the lowest uninsured rates in the country. Hawaii seized an opportunity that no other states have: Its 1974 Prepaid Health Care Act that mandates employer coverage was passed just before Congress enacted the Employee Retirement and Income Security Act (ERISA) which prevents states from requiring employers to offer health coverage.

The Vermont and Florida laws contain incentives and some requirements for employers and insurers to provide affordable health care coverage and improve access to Medicaid to unemployed and part-time workers. Both states have also created health care agencies to study and oversee implementation of health care access and cost control efforts.

The Vermont health care reform legislation enacted in 1992 commits the state to global budgeting, centralized health planning, and the design of a universal access health care system. The legislature will be choosing from designs of both single and multiple-payer systems in 1993. In addition, all insurance companies will be mandated to use common claim forms. Minnesota will tax insurers, health facilities, doctors and dentists, health maintenance organizations, and cigarettes to subsidize health insurance policies for the otherwise uninsured.

Managed Competition. This is the most recently proposed approach to the cost-access issue. States may try to implement a system that would band employers and unemployed people into large health insurance networks to improve health insurance purchasing power. It would pressure doctors, hospitals, and health maintenance organizations to compete on price and quality to

win business. In 1993, Colorado will study a program designed to cover all residents through a combined state and employer subsidized effort. The proposed state-administered program would control costs through managed competition by narrowing the insurers to the top performers in the state, many of which offer managed care plans. Individuals would sign up for coverage on a yearly basis with no loss in their coverage due to change in employment status.

Single-Payer System. A Canadian-type system, one in which a publicly financed statewide program would provide necessary medical services for all residents, has been considered by more than 20 states. But this program is probably the least likely to pass due to costs and political opposition in most states. Proposals for single-payer programs may be introduced by legislators in Illinois, Massachusetts, and New York. California and Massachusetts may consider bills that combine a single-payer system with managed competition. A special task force in Connecticut will study both the single-payer option and the prioritization option of the Oregon plan. "Our state now has approximately 400,000 uninsured residents. We must work to find a solution to the lack of coverage available," stated a legislative leader who considers health care reform a top priority for Connecticut in 1993.

Insurance Reform. Health insurance companies will be the likely targets of state efforts to improve health care access and control costs. Some 24 states have already enacted laws and programs to reform the insurance market in an attempt to make health insurance more accessible and more affordable, particularly for individuals and small businesses. Reforms include efforts to develop standard and basic health benefit plans that insurers must offer to small business (often employers of three to 50 employees). Respondents from Arizona, New Jersey, Utah, and Washington said their states are slated to consider such reforms. Federal pre-emption of California's recently enacted small employer health insurance reform may put the issue back on the Legislature's agenda. Oregon is moving forward on a basic benefits package for small businesses, very similar to its Legislature's proposed Medicaid package. The Oregon small business reform package prohibits insurers from refusing to sell the plan to small businesses, controls premium increases, and bans exclusion of employees based on health status.

Insurance Rating. States will continue to address exclusionary insurance practices such as experience rating in which health insurance rates are based on the health status and potential medical service use of the group to be insured. Many states may develop regulations to require community rating which sets one price to insure everyone covered under the same type of plan. Community rating measures will be under consideration in Massachusetts, Montana, and Washington, among other states.

A 1992 New York law is the boldest in this area, calling for strict community rating with no variations. The New York law applies to policies issued to groups of 50 or fewer, and to individual and Medicare supplemental policies. Maine and Vermont have less stringent community rating laws that allow for rate variations.

High Risk Insurance Pools. This type of insurance pool is another incremental approach to increase health care access that will be considered by some states. At least 26 states have this program. Risk pools offer people state-subsidized insurance premiums when they cannot buy conventional coverage because of pre-existing conditions such as cancer or diabetes. The risk pools are often funded through assessments to health insurance companies. Texas may try to secure funding for the risk pool the state authorized in 1989.

Cost Control and Revenue Raising

Federal Intervention/Obstacles. Many *Issues Outlook* respondents expressed irritation at the persistent federal government practice of passing the health care buck through Medicaid mandates. Yet, ironically, a number of Medicaid mandates improve coverage for women and children which many states also consider the highest priority population in their health care improvement agendas.

Medicaid programs may face eligibility or benefit reductions especially in the areas of optional services and medical equipment. Legislators in California, Illinois, and Oregon responded that

their states' Medicaid programs may experience cuts.

Medicaid Managed Care. Medicaid managed care is the public sector health system of choice for the '90s. States are trying to duplicate this private sector phenomenon for Medicaid recipients. Optimally, this system improves access to care and provides savings in health care costs. Close to 50 percent of people enrolled in employer-sponsored plans are governed by some sort of managed care programs whether that be health maintenance organizations or preferred provider organizations. Managed care, in theory, emphasizes preventive care, which translates into lower acute care and chronic costs and also provides ways to control excessive utilization.

Medicaid managed care programs exist most prominently in Arizona, California, Illinois, Kentucky, Michigan, Ohio, New York, Pennsylvania, and Wisconsin. New York is undertaking an ambitious effort to enroll half of its Medicaid patients in managed care programs by the end of the decade. During 1993, California may refine its program to ensure that the managed care networks have the capacity to provide care to Medi-Cal patients. The Legislature may consider a proposal to implement a managed care system for the workers' compensation system. In Connecticut, also, a top legislative priority will be "to extend managed care expertise of the private sector to government programs."

Regulating Health Facility Pricing. To regulate or not to regulate . . . the answer is unclear. States that have in the past regulated hospital prices, like New Jersey and Massachusetts, now may try competition as a way to control costs. A respondent from New Jersey said that state "will attempt to put competition back into the marketplace for hospitals so that they have to compete for business in an effort to drive down the cost of hospital care." Last year, Massachusetts deregulated its hospital rate setting system, but "the expected benefits have yet to emerge," commented a legislator from that state. Nevada is also considering price regulation for hospitals.

Global Budgeting. A global budget is one in which limits are imposed by a government authority on the total amount of money to be spent for all services provided by health care facilities and providers. Vermont plans to implement global budgeting in 1994; and California, New York, and Washington will consider global budgets.

Provider Taxes. Provider taxes have been used by states to help keep up with spiraling Medicaid costs. Medicaid has been the fastest growing expenditure in state budgets for the last three years, averaging more than 15 percent growth annually. Medicaid consumes more than 12 percent of total state general funds.

Provider taxes are levied on health care providers, including hospitals, nursing homes, pharmacists, and clinics. The revenues are used to enhance a state's matching funds for Medicaid, which draws more federal Medicaid money.

The federal Health Care Financing Administration (HCFA) sought to prohibit provider taxes, characterizing them as schemes to cut states' share of Medicaid costs. Congress blocked HCFA until 1991. A report that year by the inspector general of the Department of Health and Human Services estimated that provider taxes would cost the federal government an additional $12 billion in 1993 and would "bankrupt the Medicaid program." Congress then limited provider taxes with adoption of P.L. 102-234.

The act specifies that provider taxes cannot exceed 25 percent of state Medicaid expenditures, and they must be applied uniformly to all types of providers in a class. Before the new law, some hospitals in a state could be subject to a tax and some not. Thirty states had some type of provider assessment in place or pending when the act was passed, and at least 28 of those states must make significant changes to their laws to comply. HCFA interim final regulations implementing the law were published in November 1992, with a 60-day comment period.

Some states clearly are hit hard. Alabama and Tennessee, for example, receive about 60 percent of their state Medicaid share from provider taxes, which must be reduced to no more than 25 percent. At the same time, they face some of the

largest Medicaid budget increases due to congressionally mandated expansions in Medicaid coverage.

No wonder then that Medicaid mandates and restriction on state funding strategies overwhelmingly dominated the federal policy concerns of *Issues Outlook* respondents.

Cost Containment Commissions. More and more states, such as Minnesota, Montana, and Washington, will get back on the cost containment commission bandwagon, which was popular in the early '80s, to study and develop recommendations for controlling rising health care costs. A Colorado health care cost containment commission has set a formidable goal of cutting the state's medical care inflation rate in half by 1994, and bringing it down to the general inflation rate by 1996.

Workers' Compensation. Reducing health care costs in workers' compensation benefits will continue to be of particular importance said the respondents from Western states where worker compensation reforms have been ongoing. California will look at ways to limit claims for work-related stress, cap expenditures for medical evaluations and vocational rehabilitation, and curb referral abuse. Washington state will seek better coordination of its worker compensation program and the Washington Basic Health Plan.

Maternal and Child Health

Expanding Coverage for Children and Pregnant Women. Children place high on the legislative health agenda. And pregnant women and children are the first on legislators' lists to receive improved access to health care, many through Medicaid expansions and state subsidized insurance premiums. Nearly half of the survey respondents indicated that expanding or maintaining coverage for children and pregnant women is their highest priority. California, Connecticut, Georgia, Illinois, Minnesota, Montana, Pennsylvania, and Texas are among the states likely to implement or improve plans to cover larger portions of their states' children and pregnant women. Minnesota adopted major health reform legislation in 1992 to expand its Children's Health Plan to cover more uninsured children and add children's in-patient services. In addition, the Children's Health Plan will be incorporated into the new, more comprehensive Minnesota Care program which will include coverage for adults.

Connecticut may consider the expansion of primary care programs to all the state's children. Texas will consider the Governor's Health Policy Task Force proposal for a children's health plan, a proposed statewide system to finance and deliver comprehensive health care to all children (birth to 18 years) and pregnant women. However, one lawmaker explained that this innovation may be deferred to a future session due to an anticipated revenue shortfall. But in Texas, the Legislature will try to do all it can to protect maternal and child health programs from budget cuts, said one of the legislators. The commitment to child and maternal health, even in fiscal austerity, stands out as well in the response from a Republican leader in California:

> *California currently has several programs in place to provide publicly subsidized private health insurance coverage to low-income women and their infants. It is likely that if any additional funds become available in 1993, these resources will be used to expand coverage to additional children, probably by raising the age of eligibility for these programs. Despite California's recurring budget problems, the Legislature and the governor have remained committed to funding health care. I expect this commitment to continue in 1993.*

Immunization. Perhaps because it is a proven, cost effective way to keep children healthy, many states consider childhood immunization a fairly high priority, including California, Colorado, Montana, New York, Oregon, Texas, and Washington. Nearly 40 percent of all children under age two have not been adequately immunized; in some urban areas the proportion of unprotected children is much higher. Since 1989, there has been a dramatic increase in measles cases among children. Epidemiologists fear that measles may be a warning of more debilitating childhood diseases to come if immunization rates do not improve dramatically.

Lack of continuity of care or adequate health care coverage, coupled with lack of awareness has

contributed to the resurgence of childhood diseases. The effectiveness of the immunization campaigns in the 1960s has led many parents to believe measles and many other childhood contagious diseases are no longer a threat. States will be looking at ways to educate parents about the importance of immunizing their children as well as providing access to this service.

Rhode Island is one of at least 12 states that provides at least some vaccines free of charge to all children in the state. A full vaccination series costs the state about $111 per child, compared to about $230 for a full series in the private sector. Funding for Rhode Island's program comes from the Centers for Disease Control and Prevention and assessments on insurance premiums.

Long-Term Care

Long-term care efforts may lose ground as a priority in 1993. Although legislators seemed concerned about providing long-term care services, most respondents did not offer specific plans and, in fact, said there may be some budget cuts in this area, with some elderly eliminated from Medicaid eligibility.

Alternatives to Institutionalization. California may improve long-term care services through federal funds by expanding the state's existing In-Home Supportive Services Program. At the same time, the state may try to save money by directing more long-term care patients to lower-cost facilities and by slowing increases in nursing home reimbursement rates.

One Washington legislator wrote that the long-term care issue may be addressed as part of the state's larger health care reform efforts. Washington legislators also may focus on improving access to community care for the developmentally disabled, including expansion of respite care and family support. But the state may also consider reducing the number of nursing home beds. New York will look at controlling long-term care costs through the use of case management and managed care programs. Texas may divert funding earmarked for nursing home care to in-home attendant care programs.

Rural Health Care

Among the states surveyed, improving access to health care in rural areas is a moderate priority. But for states with predominantly rural populations, such as Montana, access problems have much to do with lack of facilities and health care professionals.

More attention will be paid to recruitment and retention of health care providers than to increasing availability of health facilities as a way to improve access. An Illinois legislator would like to see the state increase the opportunities for mid-level practitioners, such as nurse midwives and physician assistants, to practice independently in rural areas. Texas has a proposal to encourage medical students, through loan forgiveness, to choose primary care practices in underserved parts of the state. Minnesota recently created a state office of rural health care which may propose new initiatives.

Rural health care services may suffer from state budget cuts in California and Illinois. California will look for an alternative funding source, such as taxing physicians, for its program to place doctors in medically underserved areas. "Rural health care is important, but budget restraints are likely to reduce the emphasis in this area," concluded an Oregon legislator.

HIV/AIDS

HIV/AIDS issues are a relatively low priority for states except those hardest hit by the epidemic, particularly Massachusetts, New York, and New Jersey. New York may consider an increase in funding for HIV testing and training health care workers.

Many legislators indicated that HIV/AIDS will be a low priority because programs are already in place. Other states may consider program cuts, especially those that relied on federal funding. State drug reimbursement programs to pay for HIV disease treatment such as AZT may be cut in Illinois and Oregon and probably in many other states. Oregon may also cut its state budget for HIV counseling and testing services.

Limiting the medical practice of HIV-infected health workers and requiring them to disclose their HIV status to patients may be on the agenda of some states. Texas plans to "fine tune" its legislation that requires health facilities to develop lists of HIV exposure-prone procedures and requires HIV-infected health workers to obtain guidance from an expert review panel and disclose their HIV status to patients. Other states may consider similar legislation in 1993.

The Outlook

Legislative leaders and key legislators in health policy clearly concur in their responses for *Issues Outlook* that major reforms are needed in the health care system to control costs and improve access to care, especially for children. There are increasingly more agreements about what must be done to revamp the system. But a large gap remains between identifying problems and solutions and actually implementing them. Ideally, many states would like to ensure their citizens universal access to health care, but for now, the reality of depleting state budgets, already heavily impacted by health care costs, demands immediate attention by legislators. Solutions that address both issues is the long-term goal of many states.

"Our current budget status is such that we will be stretched to keep current programs in place," said one Illinois legislator, which sums up the outlook in many states on their ability to move forward in health care improvements in 1993.

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Leading criminal justice legislators in selected states surveyed for *Issues Outlook* have identified sentencing and sentencing options as their highest criminal justice priority as they go into 1993 sessions. Alternatives to incarceration, in particular, will command attention as states struggle with chronic overcrowding and overspending in corrections. While the problems in corrections are hardly new, the more restrictive fiscal climate in which they are faced means that pressure is on like never before to consider new approaches in corrections. Perennial issues of juvenile justice and crime victims will remain priorities in numerous states, and some states will examine reorganization of their criminal justice systems.

Prison Overcrowding Persists

Since the early 1970s, prison populations in this country have steadily, and sometimes rapidly, increased. By 1990, there were twice as many prisoners in the United States as there had been just 10 years before. And rising prison populations have had states scrambling to finance and build prisons in the face of federal lawsuits and court oversight of state corrections systems. In 1992, 40 states were constructing, adding, or renovating almost 100,000 new prison beds at a cost of almost $5 billion. As mind boggling as the construction costs are, they pale in comparison to costs for operating prisons: In FY 1992, states spent almost $18 billion to operate prison systems. Like prison populations, spending on corrections to build, maintain, and operate prisons has approximately doubled during the past decade.

The population and cost explosions in corrections have weighed heavy on state general fund budgets. In 1992, state expenditures for corrections were 4.7 percent of state general fund budgets--up from about 1 percent in the early 1980s and about 3 percent in 1986. Corrections has been a major state expenditure item in recent years, exceeding growth in education budgets and general funds overall. Only Medicaid outpaced corrections in state spending growth in 1992.

Policymakers and prison managers share frustration, however, that the increased commitment of funds for corrections has not been enough to keep prisons in many states operating safely and constitutionally. By the late 1980s, when crack cocaine and a "war on drugs" entered the scene, new and existing drug laws sent more people to prison for longer periods of time, further entrenching states in prison overcrowding. Even following the unprecedented prison building boom of the past decade, in 1992 the nation's prisons exceeded their rated capacity by more than 15 percent. A Pennsylvania legislator responding to *Issues Outlook* reported that delays in prison expansion there due to budget limits has their state prisons operating at nearly 150 percent of capacity. The situation in other states is so grim that in mid-1992 Connecticut, Florida, Illinois, Maine, Michigan, and Pennsylvania had new prisons built but were without adequate funds to open and operate them.

The slow revenue growth and budget cuts that mark this current state fiscal funk make the slice of the budget pie going for corrections much less palatable. Certainly the fiscal mood, and increasingly the policy mood in states as well, is to stop or at least slow the prison treadmill of the past two decades.

Alternatives to Prison

For a number of years states have developed and experimented with non-prison, alternative punishments. Eighteen states have legislation authorizing community corrections, often by forming state-local partnerships for developing and using alternatives for non-violent offenders. Other states, as well, operate alternative programs at state and local levels. But "intermediate punishments," those sanctions less restrictive than prison but more restrictive than traditional probation, now manage only about 4 percent of the offender population in this country. A number of state legislators surveyed for *Issues Outlook* said that expanding use of such programs needs to become a higher priority in their state in the year ahead. Michigan, Nevada, and Texas are among the states likely to consider such measures.

Non-prison programs that legislatures likely will consider implementing and expanding include community service, restitution, fines, intensive probation supervision, house arrest and electronic

monitoring, day reporting centers, boot camps, and other residential program options.

Intermediate punishments often provide a level of community supervision commensurate with the crime and the crime-propensity of the offender; many require the offender work or provide other atonement to the community or victim. And most programs operate at a per-offender cost considerably less than prison, with cost benefits greatest in programs that collect fees from offenders to help offset supervision costs.

The most restrictive intermediate punishment programs include the relatively new concept of boot camps and one of the oldest penological approaches, halfway houses. Boot camps are military-style facilities distinguished by a disciplinary philosophy and demanding physical requirements. Generally a "front end" sentencing option, courts (or department of correction officials in a few states) can divert certain offenders, under statutory authority and guidelines, to boot camps for a shorter term than they would have served in prison. Halfway houses traditionally have been "back end" programs that provide a "halfway" point between prison and freedom in the community by moving offenders into low-security residential facilities near the end of their sentence. Halfway houses provide offenders with access to employment, social services and treatment programs to help with a successful transition back into the community following a prison term.

Continued expansion and strengthening of front- and back-end diversion programs will be a leading priority in Tennessee in 1993, according to a survey respondent. He added, however, that the legislature's attention to these programs likely will be budgetary, since most statutory policy is already in place.

Prison alternatives of interest to state legislatures in 1993 include low-security residential options with programming to address prisoner needs. A number of legislators surveyed expressed interest in how such programming can be effectively integrated into prison operation and management. Delaware, for example, is interested in expanding use of work camps, work release centers, and drug treatment centers to relieve prison overcrowding; and Texas will consider developing state detention centers--less costly than state prisons--for offenders who have not complied with community program requirements and are being revoked from those programs. Because of a huge backlog of state prisoners in county jails and payments to counties authorized by 1991 legislation, Texas currently faces a nearly $1 billion annual price tag on housing prisoners of the state in county detention facilities.

Other community corrections programs mentioned of interest for implementation or expansion include:

House Arrest and Electronic Monitoring. Courts increasingly can sentence offenders to house arrest, also known as home detention, with and without electronic monitoring. Such sentences provide for much stricter supervision than traditional probation, generally confining an offender to his home when he or she is not working. Many home confinement programs use electronic devices that monitor the offender's whereabouts through a small transmitter worn around the wrist or ankle. Use of house arrest and electronic monitoring by states and localities continues to rapidly expand. Florida was one of the first states to implement house arrest and electronic monitoring in the mid-1980s and now has more than 12,000 offenders under house arrest. The National Committee on Community Corrections, a Washington-based community corrections consortium, has reported that electronic monitoring costs $2,500 to $8,500 a year per offender, depending on level of electronic monitoring, while state prisons average $20,000 a year per offender.

Intensive Supervision Probation (ISP). ISP provides for very strict supervision of an offender while he lives and works in the community. Offenders under ISP usually are accountable on a daily basis for their whereabouts and activities, must meet with a probation officer frequently and sometimes unexpectedly, and are required to obey curfews and submit to tests for drug and alcohol use. ISP programs are now found in one or more jurisdictions of every state. Intensive supervision probation usually costs from $2,000 to $7,000 a year per offender, which is considerably more expensive than routine probation, but considerably cheaper than prison. The primary

problem in achieving cost savings with ISP is the temptation to narrow the field of eligible offenders so much that offenders who otherwise would have received routine probation supervision get ISP instead.

Fines and Restitution. These alternatives are sometimes ordered as stand-alone punishments but often accompany other community corrections sanctions. Restitution is paid to the victim to compensate for loss. Fines paid to government are one of the oldest, most standard non-prison sanctions but haven't been used as extensively in the United States as in other, mostly European, countries. Renewed interest in fines is evident, however, as the concept of income-sensitive "day fines" catches on in some U.S. cities. Day fines compute the amount of the fine using "units" which consider the crime committed, criminal culpability, and economic circumstances of the offender.

Day Reporting Centers. These centers are also one of the newer prison-alternative concepts in the United States, with jurisdictions in at least six states now operating programs in which an offender must report to a location every day, and, somewhat like intensive supervision probation, be accountable for daily activities.

Public Opinion

A major obstacle to more comprehensive application of alternatives to incarceration has been the general belief that the public can be appeased only by sending more people to prison for longer periods of time. Some important work has taken place in recent years, however, that begins to dispel that belief and paint a different picture of what the public will accept in punishing offenders.

Public opinion studies in Alabama and Delaware, in 1989 and 1991 respectively, showed the public mind about crime and punishment in the two states to be so strikingly similar as to have national implications. Citizen review panels in those states often favored strict probation, community service, restitution, house arrest, and boot camps for non-violent offenders. The studies showed that public support for such alternatives was strongly tied to program requirements that offenders work or in some way repay the victim or community for their crime. Support for intermediate sanctions among citizens in Alabama and Delaware was conditional upon strict enforcement of such programs. Another national survey also showed the American public favoring community corrections programs over prison for non-dangerous offenders.

Policymakers seeking expanded use of intermediate punishments are aided by such public opinion studies and by a growing body of data that suggest that well-run community corrections programs do not pose undue risk to public safety. Justice Department and other analyses have shown high completion rates and low re-offense rates among participants in community residential, electronic monitoring, home confinement, and other intensive supervision community programs. Legislators, like the public, find community corrections programs acceptable only when they are managed in such a way as to provide strict enforcement of program rules and with paramount interest in ensuring public safety.

Mandatory Minimum and Sentence Enhancements

While alternatives to incarceration are central to deliberations on sentencing philosophy and policy, other sentencing reform also will attract legislative attention in 1993 sessions. In particular, several states surveyed expressed interest in reviewing mandatory minimum sentencing laws under which a set, minimum time must be served in prison without parole or other sentence reductions. In many states, mandatory minimum sentences are seen to be a major force driving prison populations upward. Respondents in California, Delaware, New York, and Wisconsin indicated that sentence lengths or mandatory minimum sentences are likely to be revised in their states in 1993.

With only a few exceptions, states have statutory mandatory minimum sentences that apply to crimes in which firearms are used, certain drug crimes, and crimes committed by habitual, or repeat, offenders. At least 16 states also have mandatory minimum prison sentences that apply to felonies committed against minors, and some

states have similar statutes applying to elderly or other vulnerable victims.

The mandatory minimum sentence laws that appear to be taking the most heat--in terms of the cost impact on prison systems versus the degree to which they control crime--are those that apply to possession of certain specified amounts of specific controlled substances. In Delaware, for example, the legislature this year is likely to consider review of a mandatory three-year sentence for the possession of five grams of most drugs. Similarly in Minnesota, proposals will be heard to review harsh sentences for possession of three grams of cocaine or crack cocaine. And in New York, proposals will again be heard for repeal of a statutory mandatory prison term for second felony offenders, which has contributed to severe stress on criminal justice resources. Those who advocate repeal of the mandatory sentence for a second felony offense say the law does little to deter drug trade in the cities and sends to prison many street seller-addicts who, instead, need greater availability of treatment resources.

In California, also, sentencing reform will be the first criminal justice priority in 1993. Lawmakers are expected to consider proposals to arrange felonies into a six-step schedule in the state's sentencing guidelines, making adjustments to reflect proportionality. Removing the lid on consecutive sentences for some violent offenders and minor reductions in sentences for first-time drug offenders also are of interest in California.

How likely is it that various sentence-reduction proposals will be enacted in the states? While there is always political difficulty in reducing the sentence for a crime once a stiffer penalty has been enacted, Tennessee may have broken ground in 1992 by reversing 1989 legislation that doubled sentences for low-level cocaine dealers. In the same act lawmakers significantly increased sentences for some sex offenses, a move proponents say has more tangible public-safety benefits.

Lawmakers in Alabama are considering their next move following the governor's veto of several significant pieces of corrections legislation passed in special session in September 1992. The Legislature had revised the habitual criminal act to eliminate many property offenders and passed a "pay as you go" measure to require that new sentencing policy be accompanied by a corresponding appropriation. Florida, also, has heard proposals to revise the habitual offender statute and that issue is likely to be discussed as part of sentencing deliberations again in 1993.

A recently published study by the Florida Legislature's Joint Legislative Management Committee, Economic and Demographic Research Division, said the habitual offender statute has not, in practice, lived up to its intent to incarcerate the very worst offenders, but has frequently been applied to less serious offenders. Only in one circuit was the statute seen to be used more frequently against the most serious and dangerous of eligible offenders. The legislative study said that not only is application of the law disparate by circuit, in most circuits the habitual offender sanctions are much more likely to be used for black offenders than non-black, even after adjusting for prior record, the nature of the current offense, and other relevant factors.

The issue of racial disparity in prosecution and sentencing is one that has received increased attention in states over the past few years and, it is expected, will continue to be an important factor in crime and sentencing deliberations. The Minnesota Legislature in 1993 will begin work on recommendations from a Supreme Court Task Force on Racial Bias, which will report in January.

Sentencing Guidelines

State legislative activity in sentencing reform in 1993 also will continue the trend toward broad-based sentencing reform, usually in the form of development and application of "structured sentencing" or what is known as "sentencing guidelines."

Inspired by a desire for more predictability and equity in criminal penalties, a number of states have found structured sentencing to be the best way to achieve that objective. At least eight states now have sentencing guidelines in place. Other states, including Arkansas, Kansas, North Carolina, Ohio, and Texas, are in the process of developing or implementing guidelines. Two of the early guidelines states, Florida and Pennsylvania, are revamping their systems of

structured sentencing and will likely see related legislative actions during 1993.

In Texas, a commission has been at work over the past year trying to correct what has been a mismatch of sentencing policy and correctional resources. By the end of 1992, the commission will recommend guidelines to the Legislature. Lawmakers will have as their priority carving out the bottom tier of felonies for mandatory community corrections as part of a structured sentencing system. The new system will replace what is now a fairly fictional sentencing scheme in which offenders serve about 13 percent of the sentence given. That lack of certainty and predictability in sentencing has resulted in very low public confidence in government's ability to handle crime and justice. Texas legislators, therefore, are challenged in 1993 to turn commission recommendations into new laws and policies that begin to turn the criminal justice system around.

Arkansas is another state at work in 1993 on structured sentencing, with a Corrections Resources Commission expected to make recommendations to the General Assembly in the year ahead. Legislation in 1991 directing work of the Commission called for development of guidelines, development of a Community Corrections Act that includes financial incentives to localities to develop prison alternative programs, and recommendations regarding administration of various corrections agencies. Legislative actions in 1993 may include establishing sentencing guidelines and creating prison alternatives for non-violent offenders, and merging duties of some separate corrections and community corrections agencies.

Meanwhile, the Kansas Legislature will oversee implementation of guidelines enacted in 1992 and set to take effect in 1994. Throughout the year, staff of the Kansas Sentencing Commission will be conducting training seminars to prepare criminal justice practitioners throughout the state for implementation. The statutory sentencing guidelines will include presumptive non-prison sanctions. The guidelines are expected to reduce the numbers of people going to prison for property crimes, thereby stabilizing the prison population. Similarly in Pennsylvania, where sentencing guidelines have been in place for 10 years, the legislature is expected to review guidelines in an effort to reduce sentences for certain property crimes and incorporate community corrections for non-violent offenders.

Budget Constraints

A cost Catch-22 has developed in the criminal justice system that will continue to affect legislative focus. A common thread among what state legislators reported as criminal justice priorities in 1993 was tied to the need to slow corrections spending. But realizing that intermediate sanctions and other reforms take an up-front investment of money in order to achieve long-term savings, legislators tempered projections of what will be developed or implemented with the reality that tight budgets will defer some actions in the year ahead.

In California, leading criminal justice legislators say that expanding intensive parole supervision and community-based treatment for drug offenders may have to be deferred because of tight budgets. Prison construction projects already authorized could be slowed by budget cuts as well.

A number of legislators surveyed expressed distaste for federal policies and pronouncements that emphasize the expansion of prison capacity as the answer to controlling crime. Many state leaders are frustrated over what has been the federal focus on apprehension of drug-related criminals without adequate funding to states and localities to house, supervise or provide treatment services for drug offenders.

A Colorado legislator echoed the sentiment of other *Issues Outlook* respondents in citing "the [federal] emphasis on apprehension of drug-related criminals without any funding or even recognition that prison without treatment is futile" as the overriding criminal justice concern in state-federal relations. State criminal justice leaders will watch with interest to see how the new administration approaches these costly criminal justice issues in the states.

Other Policy Priorities

While the cost-sensitive issues of sentencing and sentencing alternatives are expected to be high on states' criminal justice agendas in 1993, perennial issues of juvenile justice and crime victims will be addressed, and several states expect to consider reorganization of their criminal justice system.

Crime victim measures in some states will include "stalking" laws. By late 1992, 29 states had criminalized stalking to address situations where someone is victimized by being followed, harassed, and threatened with violence. More states are expected to follow in 1993. Another crime of fashion that states are looking to define and create penalties for is that of "carjacking," or armed robbery of an occupied motor vehicle. At least two states, Michigan and New Jersey, already have pending legislation to address this violent crime which law enforcement reports is becoming frighteningly prevalent in cities.

Review and revision of notoriety for profit, or "Son of Sam," laws is another victim-related issue likely to be addressed by state legislatures in the year ahead. Son of Sam laws require that profits derived by offenders from selling stories of their life and crimes to media and entertainment groups be used first to compensate crime victims. Most state laws model the New York law passed in 1977 as a result of the David Berkowitz "Son of Sam" murders. In 1991, however, the U.S. Supreme Court declared the New York law unconstitutional, saying it too broadly restricted First Amendment rights to free speech. The Court's ruling left states scrambling to revise notoriety for profit laws under that ruling. New York revised their law in 1992; other states also began that process and work will continue in 1993 as states seek to ensure that victims before offenders are compensated from fruits of crime. Pennsylvania, Texas, and Wisconsin are among the states likely to review and revise laws in this area.

The difficult issue of how to address serious, violent juvenile crime also is an important concern in state legislatures in 1993. In particular, the prevalence of juvenile gangs has states exploring how to craft policies that provide adequate enforcement efforts and punishment for gang crime, and also address prevention, acknowledging that gangs tend to be the 1990s symbol of what is wrong with our cities and society. States like Hawaii have led the way with laws to provide coordinated response of law enforcement, schools, and communities.

As gang crime increasingly is seen as a national, urban problem rather than just a West Coast phenomenon, more states are considering how to address it. How to better administer state systems for juvenile justice, especially the handling of serious juvenile crime, is a priority in some states surveyed as well. Gang intervention and prevention measures are likely to be considered in Alabama, California, Kansas, Minnesota, Nevada, New York, Texas, and Wisconsin, according to *Issues Outlook* respondents.

What may be a general move in the states toward more "government efficiency" showed up elsewhere in NCSL's survey of top criminal justice interests. Several states, in addition to before-mentioned Arkansas, expressed interest in criminal justice system reorganization. Consolidation of probation, parole, and other community corrections services under one agency is of greatest interest and appears to be tied to lawmakers' interest in seeing community corrections take a more official place in state criminal justice systems.

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After the "Big Three"--budget, education, health care--there remain a number of pressing issues which *Issues Outlook* respondents in numerous states identified as top agenda items for 1993. States' economies led other priorities. But issues from the environment to welfare reform also claimed prominent positions in a number of states.

In the area of legislative management and government efficiency, most leaders surveyed believe they especially need to strengthen long-range planning. Campaign finance is also a major agenda item in several states, although in many other cases respondents indicated that their state had already adopted core reforms.

Improving the State Economy

Senior lawmakers in at least 12 states expect to address ways of improving their states' economies. The effects of defense industry cutbacks and base closings will be a special concern in several states, including California (particularly the southern part of the state), Connecticut, and New Hampshire. A Connecticut leader said his state will "initiate programs, such as tax incentives and low interest loans, that will encourage defense industries to explore the diversification market."

Other measures states will consider to bolster their economies include: appropriated funds for job training in Arizona, bond issues in Maine, and an expanded marketing effort and possible venture capital or infrastructure fund in Missouri. One Michigan leader expects to see a focus on taxation and regulatory obstacles to private investment in the state, including unemployment insurance.

Infrastructure, including transportation and mass transit, workers' compensation, and gaming are other issues legislators will look at in enhancing the general economic welfare of their states.

Infrastructure is expected to be a top priority in Alaska, Indiana (particularly the question of lottery funding for capital improvements), and Michigan, where a bipartisan agreement is expected on how to use anticipated federal funds in rebuilding the state's transportation infrastructure. Transportation infrastructure will be a leading issue also in Delaware (mass transit), Minnesota, Missouri, and Nevada.

In Connecticut, gaming will be debated extensively as a possible means of revitalizing cities. New Mexico legislators will also be looking at gaming.

Workers' comp reform is high on the 1993 agenda for Arkansas, California, Kansas, and Montana. In California, the governor's veto in 1992 of a four-bill package keeps this issue in the forefront.

Other Policy Issues

Environmental issues will be addressed in several states, including Delaware, Georgia, and West Virginia.

Water resources are a top consideration in Alabama, where a resolution to that state's dispute with Georgia over water supply is hoped for, and in Nevada, where a respondent described the issue as a continuing "urban-rural battle." In South Dakota, two leaders reported they expect a new dedicated source of revenue for water development.

Iowa, Missouri, and Nebraska will address welfare reform and costs--"ballooning welfare costs," as a Nebraska leader put it.

Still other issues states are likely to address as priorities in 1993: abortion (Arkansas and Virginia); auto insurance (Michigan and South Carolina); reapportionment (Alabama); corrections resources (Arkansas); and gun control (Virginia).

Legislative Management and Campaign Finance

The *Issues Outlook* survey asked respondents to select from a list the legislative management improvements they believe are most needed in their state, and the campaign finance reforms they feel are most likely to be adopted in 1993.

Figure 8: Likelihood of Campaign Finance Reforms

	Contribution Limits	Bans on Certain Types of Contributions	Restrictions on use of Residual Funds	Public Financing of Campaigns
Alabama	■		■	
Arizona			■	
Colorado			■	
Connecticut	■	■	■	
Illinois		■		
Indiana	■			
Iowa			■	
Maine	■	■	■	
Michigan			■	
Nevada	■	■	■	
New Jersey	■	■	■	
New Mexico	■	■	■	
Ohio	■	■	■	
South Dakota	■	■	■	
Utah			■	
Vermont		■		
Virginia	■			
Wisconsin	■			■

Long-range planning was selected by the majority of leaders as the area most needing strengthening in their legislatures. A notable exception was in Connecticut where one leader said, "I feel the Connecticut legislature is working in a proper, orderly fashion." But in 80 percent of the states responding, one or more leaders considered the need for better long-range planning to be high or very high.

For models to strengthen legislative foresight and planning, states are likely to look at comprehensive programs underway in Utah and Kentucky. The Oregon Progress Board's "benchmark" strategy is another leading effort. Strategic budgeting initiated last year in Texas will also be an important model for other states.

Other management areas that need strengthening listed by the leaders include: partisan and non-partisan staffing (Indiana); inter-house coordination (Missouri); an increased understanding of the budget (Texas); and increased research capabilities (West Virginia). In Arkansas, leadership planning will be a focus following the term limit initiative passed in November.

Campaign finance reforms have already been adopted in many states (Arkansas, Arizona, Delaware, Georgia, Kansas, Maryland, Oklahoma, and Washington, among others), and the likelihood of reforms in other states is moderate overall, according to survey respondents. A South Carolina respondent said that legislation passed in 1991 gave that state "one of the strictest lobbying, conduct and campaign finance laws in the nation."

Three possible campaign reforms (contribution limits, bans on certain types of contributions, and restrictions on use of residual funds) have fairly equal chances of being advanced in the states, according to the survey, while public financing of campaigns is the least likely reform to be adopted in most cases (Figure 8).

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